

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 10,668

IN THE MATTER OF:

Served August 7, 2007

Application of ELIAS TSEGAYE)	Case No. AP-2007-057
MEKURIA, Trading as MEKURIA)	
TRANSPORT, for a Certificate of)	
Authority -- Irregular Route)	
Operations)	

This matter is before the Commission on applicant's failure to respond to Order No. 10,550, served June 13, 2007.

I. BACKGROUND

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

Applicant proposes commencing operations with one van, one limousine, and one sedan. Applicant proposes operating under a tariff containing rates for Medicaid transportation.

Applicant verifies that: (1) applicant owns or leases, or has the means to acquire through ownership or lease, one or more motor vehicles meeting the Commission's safety requirements and suitable for the transportation proposed in this application; (2) applicant owns, or has the means to acquire, a motor vehicle liability insurance policy that provides the minimum amount of coverage required by Commission regulations; and (3) applicant has access to, is familiar with and will comply with the Compact, the Commission's rules, regulations and orders, and Federal Motor Carrier Safety Regulations as they pertain to transportation of passengers for hire.

Normally, such evidence would establish an applicant's fitness,¹ but in this case, applicant is in the final stages of a Chapter 7 liquidation bankruptcy proceeding (11 USC § 701 et seq.).

¹ In *re Transcom, Inc.*, No. AP-05-113, Order No. 10,114 (Nov. 30, 2006); In *re Boone-McNair Transp., LLC*, No. AP-02-66, Order No. 7063 (Mar. 4, 2003).

This calls into question applicant's ability to sustain operations for one year.² Thus, while applicant's status in bankruptcy does not necessarily preclude a finding of financial fitness³, it is cause for looking behind applicant's fitness averment before making a determination that applicant is indeed financially fit.⁴

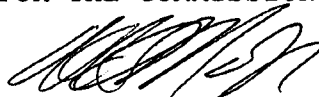
Order No. 10,550 accordingly directed applicant to supplement the record with additional evidence of applicant's financial fitness on or before July 13, 2007, including: a current credit report; all bank statements from January 1, 2007, through June 13, 2007; and applicant's 2006 federal income tax return. In addition, because applicant's only proposed tariff is for Medicaid transportation, which under Medicaid agency guidelines typically may not be performed in limousines or sedans, Order No. 10,550 directed applicant to clarify what rates he intends to charge for limousine and sedan service. Applicant has yet to respond.

II. ORDER TO DISMISS

Under the Compact, an application to obtain a certificate of authority shall be made in writing, verified, and shall contain the information required by the application form and accompanying instructions.⁵ An applicant may be required to furnish supplemental information necessary for a full and fair examination of the application.⁶ Failure to comply with the Commission's application requirements warrants dismissal.⁷ Because applicant has failed to furnish information necessary for a full and fair examination of the application, the application shall be dismissed.

THEREFORE, IT IS ORDERED: that the application of Elias Tsegaye Mekuria for a certificate of authority is hereby dismissed without prejudice for want of prosecution.

FOR THE COMMISSION:



William S. Morrow, Jr.
Executive Director

² See *In re City Sightseeing USA Inc.*, No. AP-04-39, Order No. 8042 at 3 (June 1, 2004) (financial fitness test is whether applicant has demonstrated ability to sustain operations for one year).

³ See *We Care Project Inc.*, No. AP-95-45, Order No. 4703 (Nov. 27, 1995) (applicant found financially fit despite pending Chapter 11 bankruptcy proceeding).

⁴ See *In re Transcom, Inc.*, No. AP-05-113, Order No. 9907 (Sept. 13, 2006) (requiring applicant to supplement record with financial records bearing on applicant's compliance fitness).

⁵ Compact, tit. II, art. XI, § 8; Regulation No. 54-02.

⁶ Regulation No. 54-04(b).

⁷ *In re One, LLC, t/a Bon Voyage*, No. AP-04-103, Order No. 8212 (Aug. 5, 2004).